

## § 930.73

## 7 CFR Ch. IX (1–1–06 Edition)

### § 930.73 Confidential information.

All reports and records furnished or submitted by handlers to the Board and its authorized agents which include data or information constituting a trade secret or disclosing trade position, financial condition, or business operations of the particular handler from whom received, shall be received by and at all times kept in the custody and under the control of one or more employees of the Board or its agent, who shall disclose such information to no person other than the Secretary.

#### MISCELLANEOUS PROVISIONS

### § 930.80 Compliance.

Except as provided in this part, no person may handle cherries, the handling of which has been prohibited by the Secretary under this part, and no person shall handle cherries except in conformity with the provisions of this part and the regulations issued hereunder. No person may handle any cherries for which a diversion certificate has been issued other than as provided in §§ 930.58(b) and 930.59(b).

### § 930.81 Right of the Secretary.

Members of the Board (including successors and alternates), and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each regulation, decision, determination, or other act of the Board shall be subject to the Secretary's disapproval at any time. Upon such disapproval, the disapproved action of the Board shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

### § 930.82 Effective time.

The provisions of this part, and of any amendment thereto, shall become effective at such time as the Secretary may declare, and shall continue in force until terminated, or suspended.

### § 930.83 Termination.

(a) The Secretary may, at any time, terminate any or all of the provisions of this part by giving at least 1 day's notice by means of a press notice or in

any other manner in which the Secretary may determine.

(b) The Secretary shall terminate or suspend the operation of any or all of the provisions of this part whenever the Secretary finds that such provisions do not tend to effectuate the declared policy of the Act.

(c) The Secretary shall terminate the provisions of this part whenever the Secretary finds by referendum or otherwise that such termination is favored by a majority of the growers and processors: *Provided*, That such majority has, during the current fiscal year, produced or canned and frozen more than 50 percent of the volume of the cherries which were produced or processed within the production area. Such termination shall become effective on the last day of June subsequent to the announcement thereof by the Secretary.

(d) The Secretary shall conduct a referendum within the month of March of every sixth year after the effective date of this part to ascertain whether continuation of this part is favored by the growers and processors. The Secretary may terminate the provisions of this part at the end of any fiscal period in which the Secretary has found that continuance is not favored by a majority of growers and processors who, during a representative period determined by the Secretary, have been engaged in the production or processing of tart cherries in the production area. Such termination shall be announced on or before the end of the fiscal period.

(e) The provisions of this part shall, in any event, terminate whenever the provisions of the Act authorizing them cease to be in effect.

### § 930.84 Proceedings after termination.

(a) Upon the termination of the provisions of this part, the then functioning members of the Board shall, for the purpose of liquidating the affairs of the Board, continue as trustees of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees shall:

(1) continue in such capacity until discharged by the Secretary;

(2) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and of the trustees, to such person as the Secretary may direct; and

(3) upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Board or in the trustees pursuant to this part.

(c) Any person to whom funds, property, and claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligations imposed upon the Board and upon the trustees.

**§ 930.85 Effect of termination or amendment.**

Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this part or any regulation issued thereunder;

(b) Release or extinguish any violation of this part or any regulation issued thereunder;

(c) Affect or impair any rights or remedies of the Secretary or any other person with respect to any such violation.

**§ 930.86 Duration of immunities.**

The benefits, privileges, and immunities conferred upon any person by virtue of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

**§ 930.87 Agents.**

The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency or division in the U.S. Department of Agriculture, to act as the Secretary's agent or representative in connection with any provisions of this part.

**§ 930.88 Derogation.**

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the Act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

**§ 930.89 Personal liability.**

No member or alternate member of the Board and no employee or agent of the Board shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate member, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

**§ 930.90 Separability.**

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

**§ 930.91 Amendments.**

Amendments to this subpart may be proposed, from time to time, by the Board or by the Secretary.

**§ 930.100 Grower diversion certificates.**

(a) In accordance with paragraph (b) of this section, the Board may, for the 1997 crop year, issue diversion certificates to growers, in districts subject to volume regulation (Northwest Michigan, Central Michigan, New York, and Utah) who have voluntarily elected to divert in the orchard all or a portion of their 1997 tart cherry production which otherwise, upon delivery to handlers, would become restricted percentage cherries. Growers may offer the diversion certificate to handlers in lieu of delivering cherries.

(b) *Terms and conditions.* To be eligible to receive diversion credit, growers voluntarily choosing to divert cherries